



Appeal Decision

Site visit made on 29 September 2020 by Alex O'Doherty LLB(Hons) MSc MRTPI

Decision by R C Kirby BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 November 2020

Appeal Ref: APP/T0355/W/20/3252103

19 Llanvair Drive, Ascot SL5 9HS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr & Mrs Chohan & Bains against the decision of the Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 19/03183, dated 15 November 2019, sought approval of details pursuant to condition No 7 of a planning permission Ref 19/01050, granted on 27 June 2019.
 - The application was refused by notice dated 12 February 2020.
 - The development proposed is described as "Replacement Dwelling".
 - The details for which approval is sought are: Details required by condition 7 (garage foundation design) of planning permission 19/01050 for a replacement dwelling.
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Decision

1. The appeal is allowed and the details submitted pursuant to condition No 7 attached to planning permission Ref 19/01050 granted on 27 June 2019 in accordance with the application Ref 19/03183, dated 15 November 2019 and the plans submitted with it are approved.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Application for Costs

3. The appellants made an application for costs. This application for costs has been dealt with in a separate decision.

Main Issue

4. The main issue is the effect of the foundation details proposed on the character and appearance of the surrounding area, including its effect on trees.

Reasons for the Recommendation

5. This appeal concerns two Lawson Cypress trees which are located close to the footway in the grounds of No 1 Llanvair Close. The trees are situated in a pleasant suburban area, and due to their substantial height and width they offer a great deal of charm to the local area, and particularly to Llanvair Drive. The trees help to frame the end-part of Llanvair Close and assist in softening

- the impact of the development currently under construction at No 19 Llanvair Drive.
6. Planning permission was granted¹ for a replacement dwelling at No 19 Llanvair Drive and condition No 7 required the details of the foundation design of the garage to be submitted to the Council for approval. The foundation design which is the subject of this appeal relates to a traditional strip foundation. The dispute centres on the impact of the proposed foundations on the two trees.
 7. The parties agree on the extent of the Root Protection Areas (RPAs) of the two trees, and also that there would already be an incursion into the RPAs, due to the lowering of the ground level as approved under another condition of the original planning permission. As planning permission has been granted for the house and garage, it is reasonable to presume that the Council broadly accept development being constructed so close to the two trees.
 8. The evidence indicates that the encroachment into the RPAs would be less than 5%. Also, the trees are quite young, and sufficient space remains on the plot for the trees to adapt to a disturbance of this scale. As the range of the incursion of the RPAs would be limited and based on the evidence before me I consider that there would be a low risk of damage to the vast majority of the roots of both trees. Accordingly, I consider that it is likely that the proposal would preserve the life span and overall health of the trees, even if the works require excavation to a depth greater than 600mm. In summary, whilst the relevant British Standards seek to avoid structures within an RPA without justification, in this case there would only be a minor incursion, with the vast majority of the RPAs being unaffected.
 9. It is recognised that the previous details approved pursuant to condition No 7 were acceptable to the Council, but this appeal has been determined on the basis of the scheme before me, which I find to be acceptable, for the reasons given above.
 10. I therefore conclude that the proposal would have an acceptable effect on the character and appearance of the surrounding area, including its effect on trees. The proposal would comply with Policies DG1 and N6 of the Royal Borough of Windsor and Maidenhead Local Plan (adopted 1999 (including alterations adopted 2003)) which collectively provide that harm should not be caused to the character of the surrounding area through development which results in the loss of important features which contribute to that character.

Conclusion and Recommendation

11. Based on the above, and having regard to all matters raised, I recommend that the appeal should be allowed.

Alex O'Doherty

APPEAL PLANNING OFFICER

¹ Local Planning Authority reference: 19/01050

Inspector's Decision

12. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

RC Kirby

INSPECTOR